

al barrier section together, with said nose being accommodated in said cavity for preventing any gap between said comparatively wide base portion of said barrier section and a comparatively wide base portion of said additional barrier section as said barrier section and said additional barrier section are articulated relative to one another about the hinge pin, said gap being prevented irrespective of angle of articulation existing between said barrier section and said additional barrier section, said angle of articulation being an angle at which said barrier section and said additional barrier section are situated relative to one another following articulation to each other.

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (i.e., Claims 18-37) are respectfully requested in view of the foregoing amendments and the following remarks.

Initially, it should again be recalled that the present invention provides a modular barrier comprising a plurality of barrier sections having male and female ends. The female end of a first barrier section interacts with the male end of an additional barrier section, so that projection(s) provided

at the female end of one barrier section mate with one or more projections provided at the male end of the additional barrier. The mating of the projections at the male and female ends enable the barrier sections to securely connect with each other. A hinge pin can be used to supply extra security for preventing the barrier sections from separating in the event of a collusion or impact with the barrier.

The claimed modular barrier further comprises a nose at the female end and a cavity at the male end, which corresponds to the nose. The nose has a surface of rotation which corresponds to the surface of the cavity of an additional barrier, so that the nose and cavity fit together without any gap between them.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and efficient modular barrier, useful for traffic and crowd control, either disclosed or suggested.

By the present amendments, Applicant has proposed (red ink) drawing amendments to both FIGS. 1 and 2 to now illustrate the optional use of tensioning straps (80), which may be wrapped about the groove portion (58) of barrier sections (10), when adjacent to one another. The tensioning straps may be crossed, as in a "figure-eight," at the ends (16) of each barrier section (10), before being wrapped around the adjacent barrier section. (The Specification has been amended at

Pages 8 - 9 to textually support the proposed drawing amendment.) Applicant will incorporate the proposed drawing amendment into the formal drawings, which will be filed following allowance of the application.

The proposed drawing amendments to FIGS. 1 and 2 are intended to illustrate the subject matter recited in pending Claim 27, and to address and overcome the Examiner's drawing objection, issued pursuant to 37 C.F.R. §1.83(a), wherein the Examiner had objected to the drawing figures of record on the ground that the tensioning straps recited in Claim 27 were not shown in the drawing figures.

In light of the accompanying proposed drawing amendments to FIGS. 1 and 2, Applicant respectfully requests that the Examiner's 37 C.F.R. §1.83(a) drawing amendment of the final Office Action be withdrawn.

With respect to the claims, Applicant has amended independent Claim 34 to attend to the correction of a typographical error noted in the claim entered in response to the first Office Action.

A "marked-up" version of the amendments being entered to the textual disclosure and Claim 34 is enclosed.

In the final Office Action, the Examiner also issued a "prospective" double patenting objection, pursuant to 37 C.F.R. §1.75, against Claim 36 on the ground that it was a

"substantial duplicate" of the subject matter recited in Claim 35.

Applicant has carefully considered the Examiner's contention that Claims 35 and 36 are substantially the same, and cannot agree with the Examiner's stated view. Claims 35 and 36 are each dependent claims, which both depend directly from independent Claim 34. Claim 34 recites both "barrier sections" and "additional barrier sections." Dependent Claim 35 encompasses situations in which all of the "barrier sections" are substantially identical to one another, but says nothing (and therefore does not limit) the range of structures available for the "additional barrier sections." Dependent Claim 36 recites the embodiment of the invention in which both the "barrier sections" and the "additional barrier sections" of Claim 34 "are substantially identical in construction to one another." Claim 36 actually recites a narrower version of the subject matter of Claim 35. (Claim 36 could have been properly made dependent upon Claim 35, rather than directly dependent upon Claim 34, however, the scope of Claim 36, in either case, would have been the same regardless of whether Claim 36 depended from Claim 34 or Claim 35.)

Because Claim 36 recites a narrower version of the subject matter recited in Claim 35, it is submitted that Claim 36 is not a substantial duplicate of Claim 35, and that both Claims 35 and 36 should be properly retained in the applica-

tion.

Turning now, in detail, to an analysis of the Examiner's prior art rejection of Applicant's claims, in the second Office Action the Examiner has rejected Claims 18-25 and 29-37 (Claims 18, 25 and 34 being the independent claims pending in the application) as being obvious, pursuant to 35 U.S.C. §103(a), over Bodensohn, U.S. Patent No. 5,104,255, taken in view of Brema et al., U.S. Patent No. 4,498,660. It is the Examiner's contention that the primary reference of Bodensohn discloses a barrier comprising at least one barrier section, a comparatively wide base portion, including a male and female end, an additional barrier section and at least one hinge pin (15, 16) that can be passed between the barrier section and the "additional" barrier section, so that the mated barrier sections can be disposed in a rectilinear or curvilinear arrangement, in a gapless orientation, regardless of the angle of articulation existing between the barrier section and the additional barrier section. The Examiner acknowledges that Bodensohn does not disclose the specific structure of the barrier ends. The Examiner has, therefore, secondarily-applied Brema et al., which is contended to teach a modular barrier structure having male and female end portions, with each end being provided with at least one cavity and at least one projection in the form of a nose portion, etc. The Examiner has, therefore, concluded that it would have been obvious to the skilled artisan to have provided

the barrier segment of Bodensohn with the plurality of cavities and grooves, as taught by Brema et al., in order to maximize the range of articulation, between longitudinally adjacent barriers, as reasonably suggested by Bodensohn.

In reply to the principal obviousness rejection of the second Office Action, the Examiner has contended that Bodensohn discloses at least one hinge pin (15, 16) that can be passed between the barrier section and an additional barrier section. Applicant respectfully disagrees with the Examiner's reading of Bodensohn that the "cylindrically shaped element 15" of the applied citation is a "hinge pin." Elements 15 and 16 of Bodensohn are illustrated in FIGS. 4 and 7, respectively, of the citation and would appear to have little, if anything, in common with a hinge pin. These elements can be furnished with locking grooves and a locking ledge, which is contended to be contrary to the concept and function of a "hinge." (Bodensohn, Col. 4, lines 11-16) Applicant's claims recite the limitation that the hinge pin is to be passed through projections, which the construction of elements 15, 16 in Bodensohn simply cannot achieve. The cylindrical shaped element 15 of Bodensohn is disposed between two barrier sections and is provided with a circumferential locking edge (Bodensohn at Col. 4, lines 6-10), which cooperates with corresponding features on the barrier sections for holding the element 15 and the barrier sections together. Bodensohn does not reasonably contemplate any projections which

could accommodate a hinge pin.

Further, the Examiner's contention that Bodensohn requires that at least one hinge pin that can be passed between said barrier section and the additional barrier section, so that mated barrier sections can be disposed in a rectilinear or curvilinear arrangement, etc., is inconsistent with the construction of the claimed invention, even if elements 15 and 16 of Bodensohn might be analogized to a hinge pin (which Applicant submits is not possible.) By way of example, pending independent Claim 18 requires that the hinge pin therein be passable through the respective projections at male and female ends of adjacent barrier sections to provide articulation, with the nose being accommodated in the corresponding cavity for preventing gaps from occurring.

Bodensohn does not recite the hinge pin/projection arrangement recited by Applicant in independent Claims 18, 25 and 34 and, it is respectfully contended, has little in common with the presently claimed invention, aside from the fact that Bodensohn does disclose a barrier for traffic control, etc. Bodensohn, if anything, discloses an entirely different construction for such barriers, as compared to that of the instant Applicant, that seeking to combine Bodensohn with the applied secondary reference of Brema et al. is submitted to be inappropriate.

As for the Brema et al. citation, the Examiner has con-

tended that this reference discloses a plurality of barrier segments having both male and female ends. Upon close analysis of Brema et al., a "modular fence structure," an entirely distinct type of "barrier," is taught which includes a number of individual panels (1), which can be stacked on an adjacent post (9) by way of end connectors (3) to form a fence. The end connectors (3(a), 3(b)), at respective ends of the panels (1), are identical, except that such panels lie on opposite sides of a horizontal plane bisecting the panel. Thus, the ends of the panels are essentially identical and it necessarily follows that the panel of Brema et al. do not include male and female ends - if anything, the ends of the panels in Brema et al. are exclusively "male."

Further, the surfaces 6(a) and 6(b) of the Brema et al. reference, which the Examiner has referred to as "cavities" in the rejection, are more accurately seen as planar abutment surfaces; such cavities should not be viewed as "female" end portions in Brema et al. These planar abutment surfaces are best illustrated in FIGS. 1 and 2 of the Brema et al. citation. Applicant's claims, in contrast to Brema et al., require that a cavity, which accommodates a nose - not a projection! - of an adjacent barrier section; the nose being accommodated in the cavity, so that no gap exists between them. The cavity and the nose are defined in Applicant's claims as being in a comparatively wide base portion of the respective barrier sections. Brema et al.,

instead, teaches abutments 6(a), 6(b) and end connectors 3(a), 3(b) at relatively narrow upright portions. If the "projections" 3(a), 3(b) of Brema et al. are analogized to a "nose," as recited in pending independent Claims 18, 25 and 34, then the "cavity," as the Examiner has referred to surfaces 6(a), 6(b) in Brema et al., simply do not "correspond" to the "nose" limitation in Applicant's claims.

In summation, Brema et al. does not disclose a nose portion, as recited in Applicant's pending claims, which comprises a part of the wide base portion. Brema et al., in contrast to that being claimed by Applicant, there is no "base portion" as such and, therefore, Brema et al. cannot reasonably be understood as disclosing an end portion having a "nose" portion equivalent to that of the present invention.

The end portions of both Bodensohn and Brema et al. are, therefore, quite different from that of Applicant's claimed invention, aside from the fact that Brema et al. is directed to a modular fence structure, which is somewhat removed from that of the instant invention. Combining Bodensohn with Brema et al., in the manner suggested by the Examiner, would therefore not yield the modular barrier claimed by the present Applicant.

Accordingly, withdrawal of the Examiner's 35 U.S.C. §103(a) obviousness rejection of the second Office Action, which applies Bodensohn, taken in view of Brema et al., it is

respectfully contended, has been overcome and should now be appropriately withdrawn.

Concerning, finally, the remaining reference made of record by the Examiner, but not applied in any rejection of Applicant claims, such additional art reference has been carefully considered, but are not believed to adversely affect the patentability of the present invention, as claimed.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (i.e., Claims 18-37) recite a novel and safe modular barrier, comprised of barrier sections that are able to rotate relative to adjacent barrier sections without opening a gap between base portions of said barrier sections, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding objections and

rejections and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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- Enc.: 1. Petition for Three-Month Extension of time;
2. Check for \$1,680.00 (Three-Month Extension Fee (\$930.00) + RCE Fee (\$375.00) (large entity));
3. Proposed (Red Ink) Drawing Amendment for FIGS. 1 and 2 (1 Sheet); and,
4. "Marked-Up" Version of Amendments to Specification and Claims.

The Commissioner is hereby authorized to charge the Deposit Account of Applicants' Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the present application, but which have not otherwise been provided for.



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VERSION OF AMENDMENTS WITH MARKINGS TO SHOW CHANGES MADE
(Dated April 23, 2003)

IN THE SPECIFICATION

Please amend the Specification as follows:

Page 8, line 26 - Page 9, line 6, rewrite this paragraph to now read as follows:

--As can be seen from fig. 1, each barrier section 10 includes one or more openings 56 in the side that may be used to accommodate indicia such as reflective arrows or speed limit signs, etc. Furthermore, a pair of grooves 58 run along each side and continue around the recesses 20, 22 to join identical grooves on the other side of the barrier section 10. Adjacent barrier sections can be held in place by tension straps [(not shown)] 80 (shown in phantom) that encircle them, located within the grooves 58, crossing from one side of the barrier to the other between the barrier sections 10, along the side of barrier section 10 in fig. 1 and along an end of another, adjacent, barrier section 10, as shown in fig. 2, somewhat in the form of a figure-of-eight, or a number of superposed figures-of-eight. A suitable material would be [75mm] 75 mm by [6mm] 6 mm polypropylene straps. The tension straps may be installed relatively loose and, once in place, tightened by a ratchet mechanism. The tension straps spread impact forces across a number of adjacent barrier sections 10, better dissipating the impact.--

MARKED-UP AMENDMENTS-1

IN THE CLAIMS

Please amend Claim 34 to now read as follows:

34. (Amended) A modular barrier, comprising:
a plurality of barrier sections, with each barrier section of said plurality of barrier sections including:
a comparatively narrow upright portion having one or more projections at each end; and,
a comparatively wide base portion including, at a female end of said barrier section, a nose having a surface that is a first surface of rotation and, at a male end, a cavity having a surface that is a second surface of rotation, wherein for each said barrier section there is an additional barrier section, so that when said female end of said barrier section is placed up to a male end of said additional barrier section, said projections of said female end of said barrier section, and of said male end of said additional barrier section, mate with one another for enabling a hinge pin to be passed through said projections of said barrier section and said additional barrier section, so mated, for articulating said barrier section and said additional barrier section together, with said nose being accommodated in said cavity for preventing any gap between said comparatively wide base portion of said

MARKED-UP AMENDMENTS-2

barrier section and a comparatively wide base portion of said additional barrier section as said barrier section and said additional barrier section are articulated relative to one another about the hinge pin, said gap being prevented irrespective of angle of articulation existing between said barrier section and said additional barrier section, said angle of articulation being an angle at which said barrier section and said additional barrier section are situated relative to one another following articulation to each other.